

MINUTE ORDER

CASE NUMBERS: 1:25-cv-00230-SASP-WRP and 1:25-cv-00292-DKW-KJM

CASE NAMES: *AbbVie Inc., et al v. Anne E. Lopez in her Official Capacity as Attorney General of the State of Hawai‘i* and *Pharmaceutical Research and Manufacturers of America v. Anne E. Lopez in her Official Capacity as Attorney General of Hawai‘i*

JUDGE: Shanlyn A.S. Park

DATE: 08/27/2025

COURT ACTION: **EO: COURT CONSOLIDATING ACTION**

On August 22, 2025, Defendant Anne E. Lopez in her official capacity as Attorney General of Hawai‘i (“Defendant”), gave notice that the following cases are related: *AbbVie Inc., et al v. Anne E. Lopez in her Official Capacity as Attorney General of the State of Hawai‘i*, Civil No. 1:25-cv-00230-SASP-WRP (“Civ. No. 25-230”) and *Pharmaceutical Research and Manufacturers of America v. Anne E. Lopez in her Official Capacity as Attorney General of Hawai‘i*, Civil No. 1:25-cv-00292-DKW-KJM (“Civ. No. 25-292”). Civ. No. 25-00230, ECF No. 38. In its notice, Defendant asserted that both lawsuits challenge the constitutionality of the State’s recently enacted Act 143 (formerly H.B. 712), alleging a violation of the Supremacy Clause of the U.S. Constitution. Defendant further noted that the Civ. No. 25-230 lawsuit alleges additional violations of the Takings Clause, Commerce Clause, and the Due Process Clause. In Civ. No. 25-00230, Defendant filed a Motion to Dismiss for Failure to State a Claim (“Motion to Dismiss”) on August 4, 2025. ECF No. 25. On August 25, 2025, Civ. No. 25-000292 was reassigned to this Court.

Plaintiffs AbbVie Inc., et al (“AbbVie”) and Pharmaceutical Research and Manufacturers of America (“Pharmaceutical Research”) each filed motions for preliminary injunction, ECF No. 16 in Civ. No. 25-230 and ECF No. 11 in Civ. No. 25-292, respectively. Pharmaceutical Research’s motion is set for hearing on October 3, 2025, while AbbVie’s motion is tentatively scheduled for November 13, 2025.

Under Federal Rule of Civil Procedure 42(a), consolidation is permissible if the actions before the court involve a common question of law or fact. A court may consolidate the actions, join them for hearing or trial, or issue other orders to avoid unnecessary cost or delay. *Id.* After reviewing the complaints in both lawsuits, this Court finds that these lawsuits involve common questions of law and fact, regarding the constitutionality of the State's recently enacted Act 143 (formerly H.B. 712). Accordingly, pursuant to Fed. R. Civ. P. 42, this Court will consolidate both lawsuits for purposes of determining the motion to dismiss and the motions for preliminary injunction.

The Court initially intended to hear the motion to dismiss in Civ. No. 25-230 together with the motion for preliminary injunction. Upon consideration, the Court will instead hear the motion to dismiss on November 13, 2025, at 9:00 AM. The briefing schedule is as follows:

Memorandums in oppositions shall be filed by September 29, 2025 and reply shall be filed by October 13, 2025.

Because the motion to dismiss has been filed only in Civ. No. 25-230, should Defendant elect to file a similar motion in Civ. No. 25-292, Defendant must do so by September 8, 2025 in order to avoid affecting the briefing schedule stated in this Minute Order.

Having consolidated the cases, the Court VACATES the status conference set for September 5, 2025, at 9:00 AM and the hearing set for September 25, 2025, at 9:00 AM, and deems the motions for preliminary injunction WITHDRAWN. If the Court's ruling on the motion to dismiss does not result in any dismissal or amendment to the complaints, Plaintiffs' preliminary injunction motions will be scheduled for hearing without the need to refile.

The Court further addresses the pending motion for leave to file an amicus brief. On August 11, 2025, *Amici Curiae* American Hospital Association, 340B Health, Healthcare Association of Hawaii, and American Society of Health-System Pharmacists (collectively, "American Hospital Association") filed a motion in Civ. No. 25-230, ECF No. 29, for leave to submit their brief for the Court's consideration in connection with Defendant's Motion to Dismiss and Opposition to Plaintiffs' Motion for Preliminary Injunction. According to the motion, Defendant consents to the filing of the *amicus* brief; however, AbbVie, at the time of the filing, had not responded to American Hospital Association's request. Accordingly,

any party seeking to object to the filing of the *amicus* brief must do so by September 5, 2025.

Inasmuch as the Court exercises its discretion to consolidate the lawsuits for all purposes, all filings in these two cases shall be filed and docketed in Civ. No. 25-230.

IT IS SO ORDERED.